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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/591,349	06/09/2000	Thomas Boucino	9040.7	2701

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

EXAMINER

NGUYEN, CHAU N

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/591,349

Applicant(s)

BOUCINO, THOMAS

Examiner

Chau N Nguyen

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-29 and 40-42 is/are pending in the application.
- 4a) Of the above claim(s) 14,15,18-24,27-29 and 42 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8 is/are allowed.
- 6) ☒ Claim(s) 9-13,16,17,20,25,26 and 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 9, 10, 13, 16, 17, 25, 26, 40 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Gareis (6,297,454).

Gareis discloses a communications cable comprising a cable jacket (43), a spacer (20) extending within the cable jacket, the spacer having a longitudinally extending center portion and plurality of longitudinally extending wall portions

radiating from the center portion such that the cross-section of the spacer is radially symmetric, the longitudinally extending wall portions decreasing in thickness over only a portion thereof from the center portion to the cable jacket, the spacer and the cable jacket defining a plurality of compartments within the cable jacket, and a twisted pair of insulated conductors disposed in one of the plurality of compartments (re claim 9). Gareis also discloses a plurality of twisted pairs of insulated conductors being disposed in respective ones of the plurality of compartments (re claim 10), the wall portions having a first radial section that increases in thickness with distance from the center portion and a second radial section that decreases in thickness with distance from the center portion (re claim 13), the first and second radial sections being configured such that the wall portions have a convex shaped cross-section, wherein the convex shaped cross-section is arcuate (re claims 16, 17, 40 and 41), the wall portions including a first section having a first thickness, a second section having a second thickness, and a third section having a third thickness, wherein the third section is located between the first and second sections (re claim 25), the first, second and third thicknesses being different from one another (re claim 26).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gareis in view of Boucino et al.

Gareis discloses the invention as claimed except for the compartments having a helical configuration, the twisted pairs extending helically about the longitudinal axis of the cable (claim 12), and each of the twisted pairs having a different lay length (claim 11).

Boucino et al. discloses a communications cable comprising a spacer having compartments with a helical configuration. It would have been obvious to one skilled in the art to modify the compartments of Gareis to have a helical configuration to hold the twisted pairs together as taught by Boucino et al. (col. 4, lines 15-18).

Boucino et al. discloses a communications cable comprising a plurality of twisted pairs, each having a different lay length. It would have been obvious to one skilled in the art to provide each twisted pair of Gareis et al. with a unique lay

length which is different from one another to improve the cross-talk among the pairs as taught by Boucino et al.

Allowable Subject Matter

5. Claim 5-8 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: claims 5-8 are allowed in view of the rule 1.131 Declaration filed on March 1, 2002.

Response to Arguments

Applicant's arguments filed June 30th 2003 have been fully considered but they are not persuasive. Applicant again argues that Gareis does not disclose a radially symmetric arrangement because the cross-section of the spacer 21 is oblong. Applicant further states that the arms of the Gareis spacer are not radially symmetric about a central point in the central portion. These arguments are not found persuasive. As shown in Figures 1-3 of Gareis, the spacer 21 is configured with wall portions which are radially symmetric (see Figure 2). Specifically, in Figure 2, there is the X-Y plane (the two cross lines), if one was folding the arm 26 over the X-line, arm 26 would be aligned or exactly on top of arm 27. Likewise, if

one was folding arms **26** and **27** over the Y-line, arms **26** and **27** would be on top of the two arms on the left side of the Y-line. Accordingly, the wall portions of Gareis are radially symmetric.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau N Nguyen whose telephone number is 308-0693. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (703) 308 3682. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Chau N Nguyen
Primary Examiner
Art Unit 2831